

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 MCT-02 L-03 SSO-00 CIAE-00 INR-10  
NSAE-00 INRE-00 DOTE-00 DODE-00 FAA-00 H-01 EB-08  
SY-05 NSCE-00 SP-02 IO-13 JUSE-00 USSS-00 SS-15  
PM-05 /077 W

-----002754 071755Z /41

O R 071728Z SEP 78  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC IMMEDIATE 1698  
INFO AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
AMEMBASSY WARSAW  
USMISSION USBERLIN  
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 02 BONN 16396

E.O. 11652: XGDS-1  
TAGS: PINS, PGOV, BQG, WB, PL, GE, GW  
SUBJECT: HIJACK OF LOT AIRCRAFT TO BERLIN: FURTHER BONN  
GROUP REACTION TO US POSITION

REFS: A) BONN 16270 B) STATE 225179

1. SINCE REF A WAS DRAFTED DURING THE SEPTEMBER 6 BONN  
GROUP MEETING IN ORDER TO INFORM THE DEPARTMENT URGENTLY  
OF THE CHANCELLOR'S VIEWS, THAT CABLE DID NOT FULLY RE-  
PORT THE VIEWS EXPRESSED AT THE MEETING REGARDING THE  
TALKING POINTS ADVANCED IN REF B. A FULLER REPORT OF  
THESE VIEWS, INsofar AS THEY WERE NOT CONTAINED IN REF A,  
FOLLOWS.

2. THE FRG REP (VON BRAUNMUEHL) SAID THE US SUGGESTION  
TO PROVIDE GUIDANCE TO AND IMPOSE RESTRICTIONS ON THE  
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GERMAN COURT, WAS INTERESTING AND THE FRG WANTED TO RE-  
SERVE ITS POSITION ON IT. (COMMENT: HE INFORMED US ON  
SEPTEMBER 7 THAT THE MINISTRY OF JUSTICE'S INITIAL REAC-  
TION TO THE IDEA WAS LUKEWARM. END COMMENT)

3. THE FRENCH REP (LASSUS) SAID THE FRENCH POSITION ON  
JURISDICTION WAS CLOSE TO THE FRG'S, HAD BEEN EXPLAINED

BEFORE, AND WOULD NOT CHANGE. HE OBSERVED THAT EACH US POINT COULD BE MADE TO CUT BOTH WAYS. FOR EXAMPLE, ONE COULD TURN AROUND THE ARGUMENT THAT NOT EXERCISING GERMAN JURISDICTION NOW COULD MAKE IT MORE DIFFICULT TO SUPPORT FUTURE EXTENSION OF LEGISLATION TO BERLIN. ON THE CONTRARY, ASSERTION OF ALLIED RIGHTS IN A CLEARLY RESERVED AREA WOULD SHOW THAT ALLIED RESERVATIONS WERE "NOT PURE WORDS." THIS ASSERTION WOULD GIVE THE ALLIES EVEN MORE FREEDOM TO SUPPORT FUTURE EXTENSION OF TREATIES TO BERLIN.

4. SIMILARLY, LASSUS SAID, THE EXTENSION OF THE HAGUE CONVENTION TO BERLIN NOT ONLY PERMITTED EXERCISE OF GERMAN JURISDICTION, BUT IT ALSO PRESERVED ALLIED JURISDICTION BECAUSE THE ALLIES HAD MADE RESERVATIONS TO IT.

5. THE UK REP (EYERS) OBSERVED THAT IT WOULD NORMALLY BE A "LOGICAL CONSEQUENCE" OF THE EXTENSION OF THE HAGUE CONVENTION TO BERLIN FOR A GERMAN COURT TO TRY THE HIJACKER. IF THE GERMAN AUTHORITIES COULD OFFER SOME PROSPECT THAT THE RESULT OF A GERMAN TRIAL WOULD CONVINCE WORLD OPINION THAT OBLIGATIONS UNDER THE HAGUE CONVENTION HAD BEEN MET, THEN A TRIAL BY A GERMAN COURT WOULD BE "A LIKELY SOLUTION." SINCE THE FRG HAD IN FACT WARNED OF THE UNPREDICTABILITY OF THE RESULT, THEN THE UK (ASSUMING EXTRADITION WAS RULED OUT) BELIEVED

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A TRIAL BY THE US

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 16396

WAS THE BEST COURSE.

6. EYERS DISMISSED ARGUMENTS ABOUT THE DELAYS INVOLVED IN SETTING UP A SPECIAL US OCCUPATION COURT. THE BRITISH HAD THEMSELVES OVERCOME THESE PROBLEMS AND HE THOUGHT IT HAD TAKEN LESS THAN THREE WEEKS TO CONSTITUTE A SPECIAL BRITISH COURT AFTER THE ATTACK AT THE SOVIET WAR MEMORIAL.

7. HE ALSO DIRECTLY CRITICIZED THE POINT THAT FAILING TO EXERCISE GERMAN JURISDICTION WOULD MAKE IT MORE DIFFICULT TO SUPPORT BOTH FRG REPRESENTATION OF BERLIN ABROAD AND FUTURE TAKING OVER OF FRG LEGISLATION AND TREATIES IN BERLIN. IN THIS CONNECTION HE RECALLED VON BRAUNMUEHL'S STATEMENT AT AN EARLIER MEETING THAT "WE WOULD BE ILL-SERVED  
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IN BERLIN IF ALLIED RIGHTS AND RESPONSIBILITIES WERE ALLOWED TO WEAKEN." EYERS ALSO ASSERTED THAT THE ARGUMENT IMPLICIT IN THE US CASE THAT ESTABLISHING A US COURT WOULD IMPLY THAT BERLIN WAS BEING TREATED AS A SEPARAT SPECIAL ENTITY, COULD BE TURNED AROUND TO SAY THAT SUCH A COURT WOULD DEMONSTRATE THAT THE ALLIES WERE READY TO EXERCISE THEIR RIGHTS.

8. REGARDING EASTERN REACTION, EYERS SAID HE BELIEVED LONDON WOULD NOT BE CONVINCED THAT RESERVING TO THE ALLIES THE DECISIONS ON EXTRADITION AND NOTIFICATION TO ICAO WOULD BLUNT SOVIET REACTION. HE ALSO WONDERED HOW ONE WOULD RETAIN THIS KIND OF CONTROL OVER PROCEEDINGS IN PRACTICE.

9. WE ANSWERED THESE ARGUMENTS APPROPRIATELY AND THE OTHER THREE REPS ARE REPORTING THE DEPARTMENT'S VIEWS. HOWEVER, WE HAVE GROWING IMPRESSION THAT DESPITE OUR

ARGUMENTS, OUR ALLIES WILL CONTINUE TO HOLD TO A  
DIFFERENT CONCLUSION.  
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## Message Attributes

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**Subject:** HIJACK OF LOT AIRCRAFT TO BERLIN: FURTHER BONN GROUP REACTION TO US POSITION  
**TAGS:** PINS, PGOV, WB, PL, GC, GE, US, BQG  
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